

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: O. Howard Frazier

U.S. App. Ser. No.: 10/603,669

Filing Date: June 25, 2003

Examiner: Unknown

Group No.: Unknown

Invention: TEMPORARY  
HEART-ASSIST SYSTEMCommissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

## CERTIFICATE OF MAILING

Express Mail No.: EV322185144US

Date of Deposit: 7/30/03

I certify that the accompanying paper is being deposited with the United States Postal Service and sent "Via Express Mail" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

By: Deborah Foots

## TRANSMITTAL LETTER

Sir:

I have enclosed the following documents for the above-identified patent application:

1. Request to Void Authorization to Charge the Issue Fee at the Mailing of the Notice of Allowance; and
2. Return postcard.

Please charge any underpayment to Deposit Account No. 070153 of Gardere Wynne Sewell LLP.

Respectfully submitted,

Date:

7-30-03

  
Tim Headley  
Reg. No. 31,765  
Gardere Wynne Sewell LLP  
1000 Louisiana, Suite 3400  
Houston, Texas 77002-5007  
Direct: 713.276.5320  
Direct Fax: 713.276.6320  
Email: theadley@gardere.com

**UTILITY PATENT APPLICATION TRANSMITTAL**  
**(Small Entity)***(Only for new nonprovisional applications under 37 CFR 1.53(b))*Docket No.  
125813-1004Total Pages in this Submission  
57**TO THE ASSISTANT COMMISSIONER FOR PATENTS****B x Patent Application**  
**Washington, D.C. 20231**

Transmitted herewith for filing under 35 U.S.C. 111(a) and 37 C.F.R. 1.53(b) is a new utility patent application for an invention entitled:

**Temporary Heart Assist System**

and invented by:

**O. Howard Frazier****If a CONTINUATION APPLICATION, check appropriate box and supply the requisite information:**☐ Continuation ☒ Divisional ☐ Continuation-in-part (CIP) of prior application No.: 10/106,744

Which is a:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: \_\_\_\_\_

Which is a:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: \_\_\_\_\_

Enclosed are:

**Application Elements**

1. ☒ Filing fee as calculated and transmitted as described below
2. ☒ Specification having 27 pages and including the following:
  - a. ☒ Descriptive Title of the Invention
  - b. ☒ Cross References to Related Applications *(if applicable)*
  - c. ☐ Statement Regarding Federally-sponsored Research/Development *(if applicable)*
  - d. ☐ Reference to Sequence Listing, a Table, or a Computer Program Listing Appendix
  - e. ☒ Background of the Invention
  - f. ☒ Brief Summary of the Invention
  - g. ☒ Brief Description of the Drawings *(if filed)*
  - h. ☒ Detailed Description
  - i. ☒ Claim(s) as Classified Below
  - j. ☒ Abstract of the Disclosure

**UTILITY PATENT APPLICATION TRANSMITTAL**  
**(Small Entity)**

*(Only for new nonprovisional applications under 37 CFR 1.53(b))*

Docket No.  
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57

**Application Elements (Continued)**

3. ☒ Drawing(s) (when necessary as prescribed by 35 USC 113)
- a. ☒ Formal      Number of Sheets      9
- b. ☐ Informal      Number of Sheets      \_\_\_\_\_
4. ☒ Oath or Declaration
- a. ☐ Newly executed (original or copy)      ☐ Unexecuted
- b. ☒ Copy from a prior application (37 CFR 1.63(d)) (for continuation/divisional application only)
- c. ☒ With Power of Attorney      ☐ Without Power of Attorney
- d. ☐ DELETION OF INVENTOR(S)  
Signed statement attached deleting inventor(s) named in the prior application,  
see 37 C.F.R. 1.63(d)(2) and 1.33(b).
5. ☒ Incorporation By Reference (usable if Box 4b is checked)  
The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
6. ☐ CD ROM or CD-R in duplicate, large table or Computer Program (Appendix)
7. ☒ Application Data Sheet (See 37 CFR 1.76)
8. ☐ Nucleotide and/or Amino Acid Sequence Submission (if applicable, all must be included)
- a. ☐ Computer Readable Form (CFR)
- b. ☐ Specification Sequence Listing on:
- i. ☐ CD-ROM or CD-R (2 copies); or
- ii. ☐ Paper
- c. ☐ Statement(s) Verifying Identical Paper and Computer Readable Copy

**Accompanying Application Parts**

9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(B) Statement (when there is an assignee)
11. ☐ English Translation Document (if applicable)
12. ☒ Information Disclosure Statement/PTO-1449      ☐ Copies of IDS Citations
13. ☐ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503) (Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s) (if foreign priority is claimed)
16. ☒ Certificate of Mailing
- ☐ First Class      ☒ Express Mail (Specify Label No.): EV 322136502 US

**UTILITY PATENT APPLICATION TRANSMITTAL  
(Small Entity)**

*(Only for new nonprovisional applications under 37 CFR 1.53(b))*

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**Accompanying Application Parts (Continued)**

17. ☒ Applicant claims small entity status. See 37 CFR 1.27.

☐ (Optional) Small Entity Statement(s) - Specify Number of Statements Submitted: \_\_\_\_\_

18. ☐ Additional Enclosures (please identify below):

**Request That Application Not Be Published Pursuant To 35 U.S.C. 122(b)(2)**

19. ☐ Pursuant to 35 U.S.C. 122(b)(2), Applicant hereby requests that this patent application not be published pursuant to 35 U.S.C. 122(b)(1). Applicant hereby certifies that the invention disclosed in this application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing of the application.

**Warning**

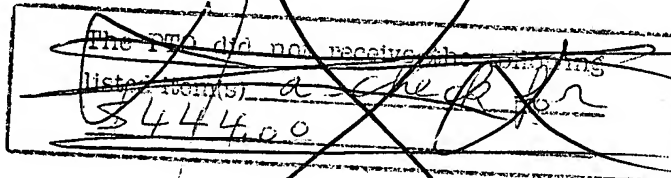
***An applicant who makes a request not to publish, but who subsequently files in a foreign country or under a multilateral international agreement specified in 35 U.S.C. 122(b)(2)(B)(i), must notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.***

**UTILITY PATENT APPLICATION TRANSMITTAL**  
**(Small Entity)**

(Only for new nonprovisional applications under 37 CFR 1.53(b))

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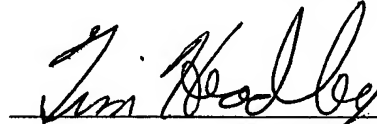
**Fee Calculation and Transmittal**

**CLAIMS AS FILED**

For	#Filed	#Allowed	#Extra	Rate	F e
T tal Claims	23	- 20 =	3	x \$9.00	\$27.00
Indep. Claims	4	- 3 =	1	x \$42.00	\$42.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
BASIC FEE					\$375.00
OTHER FEE (specify purpose)					\$0.00
TOTAL FILING FEE					\$444.00

- ☒ A check in the amount of \$444.00 to cover the filing fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge and credit Deposit Account No. 07-0153 as described below. A duplicate copy of this sheet is enclosed.
- ☐ Charge the amount of \_\_\_\_\_ as filing fee.
- ☒ Credit any overpayment.
- ☒ Charge any additional filing fees required under 37 C.F.R. 1.16 and 1.17.
- VOID ☒ Charge the issue fee set in 37 C.F.R. 1.18 at the mailing of the Notice of Allowance, pursuant to 37 C.F.R. 1.311(b).

Dated: June 25, 2003

  
Signature

Tim Headley  
Reg. No. 31,765  
Gardere Wynne Sewell LLP  
1000 Louisiana, Suite 3400  
Houston, Texas 77002-5007  
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Fax: 713 276 6320  
E-mail: theadley@gardere.com

cc:

Attorney Docket No.: 125813-1004



DIVISIONAL PATENT

**In The United States Patent And Trademark Office**

In re Application of: O. Howard Frazier

Serial No.: 10/603,669

Filing Date: June 25, 2003

Examiner: Unknown

Group No.: Unknown

Confirmation No.: Unknown

For: **Temporary Heart-Assist System**

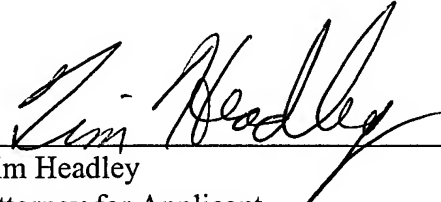
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

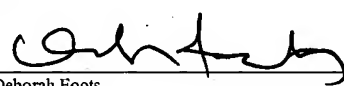
**REQUEST TO VOID AUTHORIZATION TO CHARGE THE ISSUE FEE  
AT THE MAILING OF THE NOTICE OF ALLOWANCE**

The above-referenced application was mailed to the U.S. Patent and Trademark Office on June 25, 2003. The Utility Patent Application Transmittal (Small Entity), "Fee Calculation and Transmittal" section, mistakenly shows authorization to charge the issue fee set in 37 C.F.R. 1.18, at the mailing of the Notice of Allowance pursuant to 37 C.F.R. 1.311(b). I have enclosed a copy of the Utility Patent Application Transmittal, indicating the mistake thereon. Applicant respectfully requests that the authorization to charge the issue fee at the mailing of the Notice of Allowance be voided.

Applicant believes that no fees are due at this time. However, Applicant hereby authorizes the Commissioner to charge any fees that may be required by this paper to Deposit Account 07-0153.

Dated: July 30, 2003

  
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<p>CERTIFICATE OF MAILING Express Mail No.: EV322135144US Date of Deposit: <u>7/30/03</u></p> <p>I certify that the accompanying paper is being deposited with the United States Postal Service and sent "Via Express Mail" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.</p> <p> By: Deborah Foots</p>
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c: Todd Frazier